

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE APRIL 30, 2013

SENATE BILL

No. 732

Introduced by Senator Berryhill

February 22, 2013

An act to amend, *repeal, and add* Sections 6011 and 6012 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 732, as amended, Berryhill. Sales and use taxes: exclusion: trade-in passenger vehicle.

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption of tangible personal property purchased from a retailer for the storage, use, or other consumption in this state measured by sales price. That law defines the terms “gross receipts” and “sales price.”

This bill would, *until January 1, 2017*, exclude from the terms “gross receipts” and “sales price” the value of a passenger vehicle traded in for a new passenger vehicle, including a new pickup truck, *or a new motorcycle*, if the value of the trade-in passenger vehicle is separately stated on the new-~~motor~~ *passenger* vehicle *or new motorcycle* invoice or bill of sale or similar document provided to the purchaser.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law.

Amendments to the Sales and Use Tax Law are incorporated into these laws.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6011 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 6011. (a) "Sales price" means the total amount for which
- 4 tangible personal property is sold or leased or rented, as the case
- 5 may be, valued in money, whether paid in money or otherwise,
- 6 without any deduction on account of any of the following:
- 7 (1) The cost of the property sold.
- 8 (2) The cost of materials used, labor or service cost, interest
- 9 charged, losses, or any other expenses.
- 10 (3) The cost of transportation of the property, except as excluded
- 11 by other provisions of this section.
- 12 (b) The total amount for which the property is sold or leased or
- 13 rented includes all of the following:
- 14 (1) Any services that are a part of the sale.
- 15 (2) Any amount for which credit is given to the purchaser by
- 16 the seller.
- 17 (3) The amount of any tax imposed by the United States upon
- 18 producers and importers of gasoline and the amount of any tax
- 19 imposed pursuant to Part 2 (commencing with Section 7301) of
- 20 this division.
- 21 (c) "Sales price" does not include any of the following:
- 22 (1) Cash discounts allowed and taken on sales.
- 23 (2) The amount charged for property returned by customers
- 24 when that entire amount is refunded either in cash or credit, but

1 this exclusion shall not apply in any instance when the customer,
2 in order to obtain the refund, is required to purchase other property
3 at a price greater than the amount charged for the property that is
4 returned. For the purpose of this section, refund or credit of the
5 entire amount shall be deemed to be given when the purchase price
6 less rehandling and restocking costs are refunded or credited to
7 the customer. The amount withheld for rehandling and restocking
8 costs may be a percentage of the sales price determined by the
9 average cost of rehandling and restocking returned merchandise
10 during the previous accounting cycle.

11 (3) The amount charged for labor or services rendered in
12 installing or applying the property sold.

13 (4) (A) The amount of any tax (not including, however, any
14 manufacturers' or importers' excise tax, except as provided in
15 subparagraph (B)) imposed by the United States upon or with
16 respect to retail sales whether imposed upon the retailer or the
17 consumer.

18 (B) The amount of manufacturers' or importers' excise tax
19 imposed pursuant to Section 4081 or 4091 of the Internal Revenue
20 Code for which the purchaser certifies that he or she is entitled to
21 either a direct refund or credit against his or her income tax for
22 the federal excise tax paid or for which the purchaser issues a
23 certificate pursuant to Section 6245.5.

24 (5) The amount of any tax imposed by any city, county, city
25 and county, or rapid transit district within the State of California
26 upon or with respect to retail sales of tangible personal property,
27 measured by a stated percentage of sales price or gross receipts,
28 whether imposed upon the retailer or the consumer.

29 (6) The amount of any tax imposed by any city, county, city
30 and county, or rapid transit district within the State of California
31 with respect to the storage, use, or other consumption in that city,
32 county, city and county, or rapid transit district of tangible personal
33 property measured by a stated percentage of sales price or purchase
34 price, whether the tax is imposed upon the retailer or the consumer.

35 (7) Separately stated charges for transportation from the
36 retailer's place of business or other point from which shipment is
37 made directly to the purchaser, but the exclusion shall not exceed
38 a reasonable charge for transportation by facilities of the retailer
39 or the cost to the retailer of transportation by other than facilities
40 of the retailer. However, if the transportation is by facilities of the

1 retailer, or the property is sold for a delivered price, this exclusion
2 shall be applicable solely with respect to transportation which
3 occurs after the purchase of the property is made.

4 (8) Charges for transporting landfill from an excavation site to
5 a site specified by the purchaser, either if the charge is separately
6 stated and does not exceed a reasonable charge or if the entire
7 consideration consists of payment for transportation.

8 (9) The amount of any motor vehicle, mobilehome, or
9 commercial coach fee or tax imposed by and paid to the State of
10 California that has been added to or is measured by a stated
11 percentage of the sales or purchase price of a motor vehicle,
12 mobilehome, or commercial coach.

13 (10) (A) The amount charged for intangible personal property
14 transferred with tangible personal property in any technology
15 transfer agreement, if the technology transfer agreement separately
16 states a reasonable price for the tangible personal property.

17 (B) If the technology transfer agreement does not separately
18 state a price for the tangible personal property, and the tangible
19 personal property or like tangible personal property has been
20 previously sold or leased, or offered for sale or lease, to third
21 parties at a separate price, the price at which the tangible personal
22 property was sold, leased, or offered to third parties shall be used
23 to establish the retail fair market value of the tangible personal
24 property subject to tax. The remaining amount charged under the
25 technology transfer agreement is for the intangible personal
26 property transferred.

27 (C) If the technology transfer agreement does not separately
28 state a price for the tangible personal property, and the tangible
29 personal property or like tangible personal property has not been
30 previously sold or leased, or offered for sale or lease, to third
31 parties at a separate price, the retail fair market value shall be equal
32 to 200 percent of the cost of materials and labor used to produce
33 the tangible personal property subject to tax. The remaining amount
34 charged under the technology transfer agreement is for the
35 intangible personal property transferred.

36 (D) For purposes of this paragraph, “technology transfer
37 agreement” means any agreement under which a person who holds
38 a patent or copyright interest assigns or licenses to another person
39 the right to make and sell a product or to use a process that is
40 subject to the patent or copyright interest.

1 (11) The amount of any tax imposed upon diesel fuel pursuant
2 to Part 31 (commencing with Section 60001).

3 (12) (A) The amount of tax imposed by any Indian tribe within
4 the State of California with respect to a retail sale of tangible
5 personal property measured by a stated percentage of the sales or
6 purchase price, whether the tax is imposed upon the retailer or the
7 consumer.

8 (B) The exclusion authorized by subparagraph (A) shall only
9 apply to those retailers who are in substantial compliance with this
10 part.

11 (13) The value of a passenger vehicle traded in for a new
12 passenger vehicle, including a new pickup truck, *or a new*
13 *motorcycle*, if the value of the trade-in passenger vehicle is
14 separately stated on the new passenger vehicle *or new motorcycle*
15 invoice or bill of sale or similar document provided to the
16 purchaser.

17 (A) For purposes of this paragraph:

18 (i) "Passenger vehicle" means passenger vehicle as defined by
19 Section 34710 of the Vehicle Code.

20 (ii) "Pickup truck" means a pickup truck as defined by Section
21 471 of the Vehicle Code.

22 (iii) "*Motorcyle*" means a motorcycle as defined by Section
23 400 of the Vehicle Code.

24 (B) Notwithstanding clause (i) of subparagraph (A), "passenger
25 vehicle" shall include a passenger vehicle equipped with four-wheel
26 drive.

27 (d) *This section shall become inoperative on January 1, 2017,*
28 *and is repealed as of that date.*

29 SEC. 2. Section 6011 is added to the Revenue and Taxation
30 Code, to read:

31 6011. (a) "Sales price" means the total amount for which
32 tangible personal property is sold or leased or rented, as the case
33 may be, valued in money, whether paid in money or otherwise,
34 without any deduction on account of any of the following:

35 (1) The cost of the property sold.

36 (2) The cost of materials used, labor or service cost, interest
37 charged, losses, or any other expenses.

38 (3) The cost of transportation of the property, except as excluded
39 by other provisions of this section.

1 (b) *The total amount for which the property is sold or leased*
2 *or rented includes all of the following:*

3 (1) *Any services that are a part of the sale.*

4 (2) *Any amount for which credit is given to the purchaser by*
5 *the seller.*

6 (3) *The amount of any tax imposed by the United States upon*
7 *producers and importers of gasoline and the amount of any tax*
8 *imposed pursuant to Part 2 (commencing with Section 7301) of*
9 *this division.*

10 (c) *“Sales price” does not include any of the following:*

11 (1) *Cash discounts allowed and taken on sales.*

12 (2) *The amount charged for property returned by customers*
13 *when that entire amount is refunded either in cash or credit, but*
14 *this exclusion shall not apply in any instance when the customer,*
15 *in order to obtain the refund, is required to purchase other property*
16 *at a price greater than the amount charged for the property that*
17 *is returned. For the purpose of this section, refund or credit of the*
18 *entire amount shall be deemed to be given when the purchase price*
19 *less rehandling and restocking costs are refunded or credited to*
20 *the customer. The amount withheld for rehandling and restocking*
21 *costs may be a percentage of the sales price determined by the*
22 *average cost of rehandling and restocking returned merchandise*
23 *during the previous accounting cycle.*

24 (3) *The amount charged for labor or services rendered in*
25 *installing or applying the property sold.*

26 (4) (A) *The amount of any tax (not including, however, any*
27 *manufacturers’ or importers’ excise tax, except as provided in*
28 *subparagraph (B)) imposed by the United States upon or with*
29 *respect to retail sales whether imposed upon the retailer or the*
30 *consumer.*

31 (B) *The amount of manufacturers’ or importers’ excise tax*
32 *imposed pursuant to Section 4081 or 4091 of the Internal Revenue*
33 *Code for which the purchaser certifies that he or she is entitled to*
34 *either a direct refund or credit against his or her income tax for*
35 *the federal excise tax paid or for which the purchaser issues a*
36 *certificate pursuant to Section 6245.5.*

37 (5) *The amount of any tax imposed by any city, county, city and*
38 *county, or rapid transit district within the State of California upon*
39 *or with respect to retail sales of tangible personal property,*

1 *measured by a stated percentage of sales price or gross receipts,*
2 *whether imposed upon the retailer or the consumer.*

3 (6) *The amount of any tax imposed by any city, county, city and*
4 *county, or rapid transit district within the State of California with*
5 *respect to the storage, use, or other consumption in that city,*
6 *county, city and county, or rapid transit district of tangible*
7 *personal property measured by a stated percentage of sales price*
8 *or purchase price, whether the tax is imposed upon the retailer or*
9 *the consumer.*

10 (7) *Separately stated charges for transportation from the*
11 *retailer's place of business or other point from which shipment is*
12 *made directly to the purchaser, but the exclusion shall not exceed*
13 *a reasonable charge for transportation by facilities of the retailer*
14 *or the cost to the retailer of transportation by other than facilities*
15 *of the retailer. However, if the transportation is by facilities of the*
16 *retailer, or the property is sold for a delivered price, this exclusion*
17 *shall be applicable solely with respect to transportation which*
18 *occurs after the purchase of the property is made.*

19 (8) *Charges for transporting landfill from an excavation site to*
20 *a site specified by the purchaser, either if the charge is separately*
21 *stated and does not exceed a reasonable charge or if the entire*
22 *consideration consists of payment for transportation.*

23 (9) *The amount of any motor vehicle, mobilehome, or*
24 *commercial coach fee or tax imposed by and paid to the State of*
25 *California that has been added to or is measured by a stated*
26 *percentage of the sales or purchase price of a motor vehicle,*
27 *mobilehome, or commercial coach.*

28 (10) (A) *The amount charged for intangible personal property*
29 *transferred with tangible personal property in any technology*
30 *transfer agreement, if the technology transfer agreement separately*
31 *states a reasonable price for the tangible personal property.*

32 (B) *If the technology transfer agreement does not separately*
33 *state a price for the tangible personal property, and the tangible*
34 *personal property or like tangible personal property has been*
35 *previously sold or leased, or offered for sale or lease, to third*
36 *parties at a separate price, the price at which the tangible personal*
37 *property was sold, leased, or offered to third parties shall be used*
38 *to establish the retail fair market value of the tangible personal*
39 *property subject to tax. The remaining amount charged under the*

1 *technology transfer agreement is for the intangible personal*
2 *property transferred.*

3 *(C) If the technology transfer agreement does not separately*
4 *state a price for the tangible personal property, and the tangible*
5 *personal property or like tangible personal property has not been*
6 *previously sold or leased, or offered for sale or lease, to third*
7 *parties at a separate price, the retail fair market value shall be*
8 *equal to 200 percent of the cost of materials and labor used to*
9 *produce the tangible personal property subject to tax. The*
10 *remaining amount charged under the technology transfer*
11 *agreement is for the intangible personal property transferred.*

12 *(D) For purposes of this paragraph, “technology transfer*
13 *agreement” means any agreement under which a person who holds*
14 *a patent or copyright interest assigns or licenses to another person*
15 *the right to make and sell a product or to use a process that is*
16 *subject to the patent or copyright interest.*

17 *(11) The amount of any tax imposed upon diesel fuel pursuant*
18 *to Part 31 (commencing with Section 60001).*

19 *(12) (A) The amount of tax imposed by any Indian tribe within*
20 *the State of California with respect to a retail sale of tangible*
21 *personal property measured by a stated percentage of the sales*
22 *or purchase price, whether the tax is imposed upon the retailer or*
23 *the consumer.*

24 *(B) The exclusion authorized by subparagraph (A) shall only*
25 *apply to those retailers who are in substantial compliance with*
26 *this part.*

27 *(d) This section shall become operative on January 1, 2017.*

28 ~~SEC. 2.~~

29 *SEC. 3. Section 6012 of the Revenue and Taxation Code is*
30 *amended to read:*

31 *6012. (a) “Gross receipts” mean the total amount of the sale*
32 *or lease or rental price, as the case may be, of the retail sales of*
33 *retailers, valued in money, whether received in money or otherwise,*
34 *without any deduction on account of any of the following:*

35 *(1) The cost of the property sold. However, in accordance with*
36 *any rules and regulations as the board may prescribe, a deduction*
37 *may be taken if the retailer has purchased property for some other*
38 *purpose than resale, has reimbursed his or her vendor for tax which*
39 *the vendor is required to pay to the state or has paid the use tax*
40 *with respect to the property, and has resold the property prior to*

1 making any use of the property other than retention, demonstration,
2 or display while holding it for sale in the regular course of business.
3 If that deduction is taken by the retailer, no refund or credit will
4 be allowed to his or her vendor with respect to the sale of the
5 property.

6 (2) The cost of the materials used, labor or service cost, interest
7 paid, losses, or any other expense.

8 (3) The cost of transportation of the property, except as excluded
9 by other provisions of this section.

10 (4) The amount of any tax imposed by the United States upon
11 producers and importers of gasoline and the amount of any tax
12 imposed pursuant to Part 2 (commencing with Section 7301) of
13 this division.

14 (b) The total amount of the sale or lease or rental price includes
15 all of the following:

16 (1) Any services that are a part of the sale.

17 (2) All receipts, cash, credits, and property of any kind.

18 (3) Any amount for which credit is allowed by the seller to the
19 purchaser.

20 (c) "Gross receipts" do not include any of the following:

21 (1) Cash discounts allowed and taken on sales.

22 (2) Sale price of property returned by customers when that entire
23 amount is refunded either in cash or credit, but this exclusion shall
24 not apply in any instance when the customer, in order to obtain
25 the refund, is required to purchase other property at a price greater
26 than the amount charged for the property that is returned. For the
27 purpose of this section, refund or credit of the entire amount shall
28 be deemed to be given when the purchase price less rehandling
29 and restocking costs are refunded or credited to the customer. The
30 amount withheld for rehandling and restocking costs may be a
31 percentage of the sales price determined by the average cost of
32 rehandling and restocking returned merchandise during the
33 previous accounting cycle.

34 (3) The price received for labor or services used in installing or
35 applying the property sold.

36 (4) (A) The amount of any tax (not including, however, any
37 manufacturers' or importers' excise tax, except as provided in
38 subparagraph (B)) imposed by the United States upon or with
39 respect to retail sales whether imposed upon the retailer or the
40 consumer.

1 (B) The amount of manufacturers' or importers' excise tax
2 imposed pursuant to Section 4081 or 4091 of the Internal Revenue
3 Code for which the purchaser certifies that he or she is entitled to
4 either a direct refund or credit against his or her income tax for
5 the federal excise tax paid or for which the purchaser issues a
6 certificate pursuant to Section 6245.5.

7 (5) The amount of any tax imposed by any city, county, city
8 and county, or rapid transit district within the State of California
9 upon or with respect to retail sales of tangible personal property
10 measured by a stated percentage of sales price or gross receipts
11 whether imposed upon the retailer or the consumer.

12 (6) The amount of any tax imposed by any city, county, city
13 and county, or rapid transit district within the State of California
14 with respect to the storage, use, or other consumption in that city,
15 county, city and county, or rapid transit district of tangible personal
16 property measured by a stated percentage of sales price or purchase
17 price, whether the tax is imposed upon the retailer or the consumer.

18 (7) Separately stated charges for transportation from the
19 retailer's place of business or other point from which shipment is
20 made directly to the purchaser, but the exclusion shall not exceed
21 a reasonable charge for transportation by facilities of the retailer
22 or the cost to the retailer of transportation by other than facilities
23 of the retailer. However, if the transportation is by facilities of the
24 retailer, or the property is sold for a delivered price, this exclusion
25 shall be applicable solely with respect to transportation which
26 occurs after the sale of the property is made to the purchaser.

27 (8) Charges for transporting landfill from an excavation site to
28 a site specified by the purchaser, either if the charge is separately
29 stated and does not exceed a reasonable charge or if the entire
30 consideration consists of payment for transportation.

31 (9) The amount of any motor vehicle, mobilehome, or
32 commercial coach fee or tax imposed by and paid to the State of
33 California that has been added to or is measured by a stated
34 percentage of the sales or purchase price of a motor vehicle,
35 mobilehome, or commercial coach.

36 (10) (A) The amount charged for intangible personal property
37 transferred with tangible personal property in any technology
38 transfer agreement, if the technology transfer agreement separately
39 states a reasonable price for the tangible personal property.

1 (B) If the technology transfer agreement does not separately
2 state a price for the tangible personal property, and the tangible
3 personal property or like tangible personal property has been
4 previously sold or leased, or offered for sale or lease, to third
5 parties at a separate price, the price at which the tangible personal
6 property was sold, leased, or offered to third parties shall be used
7 to establish the retail fair market value of the tangible personal
8 property subject to tax. The remaining amount charged under the
9 technology transfer agreement is for the intangible personal
10 property transferred.

11 (C) If the technology transfer agreement does not separately
12 state a price for the tangible personal property, and the tangible
13 personal property or like tangible personal property has not been
14 previously sold or leased, or offered for sale or lease, to third
15 parties at a separate price, the retail fair market value shall be equal
16 to 200 percent of the cost of materials and labor used to produce
17 the tangible personal property subject to tax. The remaining amount
18 charged under the technology transfer agreement is for the
19 intangible personal property transferred.

20 (D) For purposes of this paragraph, “technology transfer
21 agreement” means any agreement under which a person who holds
22 a patent or copyright interest assigns or licenses to another person
23 the right to make and sell a product or to use a process that is
24 subject to the patent or copyright interest.

25 (11) The amount of any tax imposed upon diesel fuel pursuant
26 to Part 31 (commencing with Section 60001).

27 (12) (A) The amount of tax imposed by any Indian tribe within
28 the State of California with respect to a retail sale of tangible
29 personal property measured by a stated percentage of the sales or
30 purchase price, whether the tax is imposed upon the retailer or the
31 consumer.

32 (B) The exclusion authorized by subparagraph (A) shall only
33 apply to those retailers who are in substantial compliance with this
34 part.

35 (13) The value of a passenger vehicle traded in for a new
36 passenger vehicle, including a new pickup truck, *or a new*
37 *motorcycle*, if the value of the trade-in passenger vehicle is
38 separately stated on the new passenger vehicle *or new motorcycle*
39 invoice or bill of sale or similar document provided to the
40 purchaser.

1 (A) For purposes of this paragraph:

2 (i) “Passenger vehicle” means passenger vehicle as defined by
3 Section 34710 of the Vehicle Code.

4 (ii) “Pickup truck” means a pickup truck as defined by Section
5 471 of the Vehicle Code.

6 (iii) “Motorcyle” means a motorcycle as defined by Section
7 400 of the Vehicle Code.

8 (B) Notwithstanding clause (i) of subparagraph (A), “passenger
9 vehicle” shall include a passenger vehicle equipped with four-wheel
10 drive.

11 For purposes of the sales tax, if the retailers establish to the
12 satisfaction of the board that the sales tax has been added to the
13 total amount of the sale price and has not been absorbed by them,
14 the total amount of the sale price shall be deemed to be the amount
15 received exclusive of the tax imposed. Section 1656.1 of the Civil
16 Code shall apply in determining whether or not the retailers have
17 absorbed the sales tax.

18 (d) *This section shall become inoperative on January 1, 2017,*
19 *and as of that date is repealed.*

20 SEC. 4. Section 6012 is added to the Revenue and Taxation
21 Code, to read:

22 6012. (a) “Gross receipts” mean the total amount of the sale
23 or lease or rental price, as the case may be, of the retail sales of
24 retailers, valued in money, whether received in money or otherwise,
25 without any deduction on account of any of the following:

26 (1) *The cost of the property sold. However, in accordance with*
27 *any rules and regulations as the board may prescribe, a deduction*
28 *may be taken if the retailer has purchased property for some other*
29 *purpose than resale, has reimbursed his or her vendor for tax*
30 *which the vendor is required to pay to the state or has paid the*
31 *use tax with respect to the property, and has resold the property*
32 *prior to making any use of the property other than retention,*
33 *demonstration, or display while holding it for sale in the regular*
34 *course of business. If that deduction is taken by the retailer, no*
35 *refund or credit will be allowed to his or her vendor with respect*
36 *to the sale of the property.*

37 (2) *The cost of the materials used, labor or service cost, interest*
38 *paid, losses, or any other expense.*

39 (3) *The cost of transportation of the property, except as excluded*
40 *by other provisions of this section.*

1 (4) *The amount of any tax imposed by the United States upon*
2 *producers and importers of gasoline and the amount of any tax*
3 *imposed pursuant to Part 2 (commencing with Section 7301) of*
4 *this division.*

5 (b) *The total amount of the sale or lease or rental price includes*
6 *all of the following:*

7 (1) *Any services that are a part of the sale.*

8 (2) *All receipts, cash, credits, and property of any kind.*

9 (3) *Any amount for which credit is allowed by the seller to the*
10 *purchaser.*

11 (c) *“Gross receipts” do not include any of the following:*

12 (1) *Cash discounts allowed and taken on sales.*

13 (2) *Sale price of property returned by customers when that*
14 *entire amount is refunded either in cash or credit, but this exclusion*
15 *shall not apply in any instance when the customer, in order to*
16 *obtain the refund, is required to purchase other property at a price*
17 *greater than the amount charged for the property that is returned.*
18 *For the purpose of this section, refund or credit of the entire*
19 *amount shall be deemed to be given when the purchase price less*
20 *rehandling and restocking costs are refunded or credited to the*
21 *customer. The amount withheld for rehandling and restocking*
22 *costs may be a percentage of the sales price determined by the*
23 *average cost of rehandling and restocking returned merchandise*
24 *during the previous accounting cycle.*

25 (3) *The price received for labor or services used in installing*
26 *or applying the property sold.*

27 (4) (A) *The amount of any tax (not including, however, any*
28 *manufacturers’ or importers’ excise tax, except as provided in*
29 *subparagraph (B)) imposed by the United States upon or with*
30 *respect to retail sales whether imposed upon the retailer or the*
31 *consumer.*

32 (B) *The amount of manufacturers’ or importers’ excise tax*
33 *imposed pursuant to Section 4081 or 4091 of the Internal Revenue*
34 *Code for which the purchaser certifies that he or she is entitled to*
35 *either a direct refund or credit against his or her income tax for*
36 *the federal excise tax paid or for which the purchaser issues a*
37 *certificate pursuant to Section 6245.5.*

38 (5) *The amount of any tax imposed by any city, county, city and*
39 *county, or rapid transit district within the State of California upon*
40 *or with respect to retail sales of tangible personal property*

1 *measured by a stated percentage of sales price or gross receipts*
2 *whether imposed upon the retailer or the consumer.*

3 (6) *The amount of any tax imposed by any city, county, city and*
4 *county, or rapid transit district within the State of California with*
5 *respect to the storage, use, or other consumption in that city,*
6 *county, city and county, or rapid transit district of tangible*
7 *personal property measured by a stated percentage of sales price*
8 *or purchase price, whether the tax is imposed upon the retailer or*
9 *the consumer.*

10 (7) *Separately stated charges for transportation from the*
11 *retailer's place of business or other point from which shipment is*
12 *made directly to the purchaser, but the exclusion shall not exceed*
13 *a reasonable charge for transportation by facilities of the retailer*
14 *or the cost to the retailer of transportation by other than facilities*
15 *of the retailer. However, if the transportation is by facilities of the*
16 *retailer, or the property is sold for a delivered price, this exclusion*
17 *shall be applicable solely with respect to transportation which*
18 *occurs after the sale of the property is made to the purchaser.*

19 (8) *Charges for transporting landfill from an excavation site to*
20 *a site specified by the purchaser, either if the charge is separately*
21 *stated and does not exceed a reasonable charge or if the entire*
22 *consideration consists of payment for transportation.*

23 (9) *The amount of any motor vehicle, mobilehome, or*
24 *commercial coach fee or tax imposed by and paid to the State of*
25 *California that has been added to or is measured by a stated*
26 *percentage of the sales or purchase price of a motor vehicle,*
27 *mobilehome, or commercial coach.*

28 (10) (A) *The amount charged for intangible personal property*
29 *transferred with tangible personal property in any technology*
30 *transfer agreement, if the technology transfer agreement separately*
31 *states a reasonable price for the tangible personal property.*

32 (B) *If the technology transfer agreement does not separately*
33 *state a price for the tangible personal property, and the tangible*
34 *personal property or like tangible personal property has been*
35 *previously sold or leased, or offered for sale or lease, to third*
36 *parties at a separate price, the price at which the tangible personal*
37 *property was sold, leased, or offered to third parties shall be used*
38 *to establish the retail fair market value of the tangible personal*
39 *property subject to tax. The remaining amount charged under the*

1 *technology transfer agreement is for the intangible personal*
2 *property transferred.*

3 *(C) If the technology transfer agreement does not separately*
4 *state a price for the tangible personal property, and the tangible*
5 *personal property or like tangible personal property has not been*
6 *previously sold or leased, or offered for sale or lease, to third*
7 *parties at a separate price, the retail fair market value shall be*
8 *equal to 200 percent of the cost of materials and labor used to*
9 *produce the tangible personal property subject to tax. The*
10 *remaining amount charged under the technology transfer*
11 *agreement is for the intangible personal property transferred.*

12 *(D) For purposes of this paragraph, "technology transfer*
13 *agreement" means any agreement under which a person who holds*
14 *a patent or copyright interest assigns or licenses to another person*
15 *the right to make and sell a product or to use a process that is*
16 *subject to the patent or copyright interest.*

17 *(11) The amount of any tax imposed upon diesel fuel pursuant*
18 *to Part 31 (commencing with Section 60001).*

19 *(12) (A) The amount of tax imposed by any Indian tribe within*
20 *the State of California with respect to a retail sale of tangible*
21 *personal property measured by a stated percentage of the sales*
22 *or purchase price, whether the tax is imposed upon the retailer or*
23 *the consumer.*

24 *(B) The exclusion authorized by subparagraph (A) shall only*
25 *apply to those retailers who are in substantial compliance with*
26 *this part.*

27 *For purposes of the sales tax, if the retailers establish to the*
28 *satisfaction of the board that the sales tax has been added to the*
29 *total amount of the sale price and has not been absorbed by them,*
30 *the total amount of the sale price shall be deemed to be the amount*
31 *received exclusive of the tax imposed. Section 1656.1 of the Civil*
32 *Code shall apply in determining whether or not the retailers have*
33 *absorbed the sales tax.*

34 *(d) This section shall become operative on January 1, 2017.*

35 ~~SEC. 3.~~

36 *SEC. 5. Notwithstanding Section 2230 of the Revenue and*
37 *Taxation Code, no appropriation is made by this act and the state*
38 *shall not reimburse any local agency for any sales and use tax*
39 *revenues lost by it under this act.*

1 ~~SEC. 4.~~

2 *SEC. 6.* This act provides for a tax levy within the meaning
3 of Article IV of the Constitution and shall go into immediate effect.
4 However, the provisions of this act shall become operative on the
5 first day of the first calendar quarter commencing more than 90
6 days after the effective date of this act.

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